

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING -- November 29, 1973

Application No. 11259 - Joseph L. Donnelly, Applicant

On motion duly made, seconded and carried by a vote of 4-0, (Illa Burt Cummings did not hear this case), the following Order of the Board was entered at the executive meeting of January 23, 1973.

EFFECTIVE DATE OF ORDER **JUL 16 1973**

ORDERED:

That the application for variance from the use provisions of the R-5-C District to permit offices for a non-profit organization at 1759 R Street, N. W., Lots 135 and 136, Square 153 be DENIED.

FINDINGS OF FACT:

1. Subject property is located in a R-5-C District.
2. This application was filed as a request for change in nonconforming use. The application was advertised as a request for a variance from the use provisions of the R-5-C District. The Board, at the public hearing, heard testimony in reference to both provisions.
3. The property is improved by a 4-story mansion like building, constructed in 1908 and has housed the French Chancery, Military, Naval and Air Attaches since 1941.
4. Applicant proposed to use this facility as business offices for the Institute of Policy Studies, a nonprofit organization. The number of persons using the facility during the normal working day would not exceed 40, the operating hours would be 9:00 a.m. to 5:00 p.m. weekdays, and very little visitor or walk-in traffic would result.

5. The applicant submitted evidence that a denial of this application would place a hardship on the applicant, in that, the building is not suited for any uses permitted in the R-5-C District. Much of the space in the building is without natural light and ventilation and the necessary renovations would be expensive and thus, there would be a very low percent of return based upon the estimated cost of operating and maintaining the building.

6. The Deputy Zoning Administrator stated for the record that, "there is and has been a continuous lawful chancery use of this building. The 1964 Chancery Act did not make this use an unlawful one. The R-5-C and R-5-D Districts continue to be zoning districts where chanceries might lawfully locate, although, the Board of Zoning Adjustment review was made necessary."

7. There was no opposition to the granting of this application.

OPINION:

In the opinion of the Board this application must be denied both as filed for change of nonconforming use and in the alternative as a use variance.

The Board concludes that the Chancery use was established as a matter of right and therefore, enjoys nonconforming status. Also, in accordance with the Chancery Act of 1964 and the Zoning Regulations the Board could permit the Chancery use today as a special exception. The office for the Institute of Policy Studies (assuming it is a nonprofit organization) would be first permitted in the S-P District. The R-5-C District is a more restrictive district. Section 7104.2 states.

" . . . . a Class 11 nonconforming use may be changed to a use which is permitted in the most restrictive district in which the existing nonconforming use is permitted".

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Therefore, the Board cannot grant this change if non-conforming use without first granting a variance from Section 7104.2.

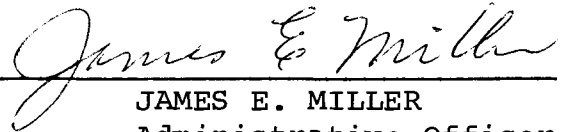
The applicant has not in our opinion established a hardship as required by Section 8207.11. The building was originally used for its zoned purpose and the cost of restoring it to a condition suitable for such use does not justify a use variance.

We are also of the opinion that to grant this application under either alternative would tend to impair the intent, purpose, and integrity of the zone plan and have an adverse affect on the use of neighboring property.

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED

By: \_\_\_\_\_



JAMES E. MILLER  
Administrative Officer